



Memorandum

To: Honorable Mayor Maso and the Frisco City Council
Thru: George Purefoy, City Manager
From: Amy Gill, Assistant to the City Manager
CC: Henry Hill, Ron Patterson, Nell Lange
Date: 10/16/2008
Re: Oncor Rate Denial

Action Requested:

Consider and act upon approval of a resolution denying Oncor Electric Delivery Company's rate increase request.

Background Information:

Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about June 27, 2008 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$275 million. (Until last year, Oncor was known as TXU Electric Delivery Company.) The Company asks the City to approve a 17.6% increase in residential rates, a 9.1% increase in commercial rates, and a 5.8% increase in street lighting rates. According to Oncor, annual rates would increase by approximately \$60 for an average residential customer. Oncor's request has been assigned Public Utility Commission Docket No. 35717.

The resolution denies the Company's requested rate increase and requires that the Company's current rates be maintained for all customers within the City.

DISCUSSION

The City, pursuant to § 33.001 of the Public Utility Regulatory Act, has exclusive original jurisdiction over the electric rates charged by the Company. In accordance with that authority, the City lawfully suspended the August 8th effective date for 90 days to review the Company's requested rate increase.

The City's review of Oncor's rate increase request is coordinated by the Oncor Cities Steering Committee ("Steering Committee"). The City is a member of the 145-city Steering Committee. The Steering Committee has been the primary public interest advocate before the Public Utility Commission, the Courts, and the Legislature on electric utility regulation matters for the last 20 years.

To conduct the review and any necessary litigation of Oncor's requested rate increase, the Executive Committee of the Steering Committee retained lawyers and consultants with expertise in regulatory rate making issues. Legal efforts are being directed by Geoffrey Gay, Kristen Doyle and Thomas Brocato with the law firm of Lloyd Gosselink Rochelle & Townsend. All reasonable consulting and legal fees incurred by the Steering Committee are reimbursable by the Company.

The major components underlying Oncor's requested \$275 million increase include an increase for depreciation expense (\$131 million), a substantial increase to the Company's storm reserve (\$81

million) and additional costs for pension and post retirement benefits (\$36 million). Based upon the analysis of the Company's filing and review of discovery responses, the Steering Committee's consultants have determined that the Company's increase cannot be substantiated by evidence. In particular, Steering Committee experts have identified problems with the evidence offered by the Company supporting its requested rate of return, cash working capital, depreciation expense, consolidated taxes, federal income taxes, storm damage reserve and pension and post retirement benefits. The preliminary analysis indicates that Cities will likely be proposing cumulative reductions to the Company's requested rate increase in excess of \$200 million. In addition, Cities' experts will file testimony regarding the rate design and cost allocation proposals made by Oncor.

The action taken by the City to deny Oncor's rate increase will be appealed by the Company to the Public Utility Commission ("PUC") of Texas. The appeals of all individual city actions will be consolidated into the current proceeding at the PUC, Docket No. 35717. The Steering Committee is already actively involved in Docket No. 35717 and will file testimony challenging the Company's support for the rate increase. The hearing regarding Oncor's requested rate increase will begin January 13, 2009 and is expected to last three weeks. In an effort to avoid litigation if at all possible, parties to the proceeding have scheduled meetings with the Company to investigate the possibility of settlement.

Explanation of "Be It Resolved" Paragraphs:

Section 1. This section finds that the new rates proposed by the Company to be unreasonable and denies Oncor's request to increase rates.

Section 2. This section requires Oncor to continue to charge its existing transmission and distribution rates to customers within the City.

Section 3. The Company will reimburse the Steering Committee for its reasonable rate case expenses. Legal counsel and consultants approved by the Executive Committee of the Steering Committee will submit monthly invoices that will be forwarded to Oncor for reimbursement. No individual city incurs liability for payment of rate case expenses by taking action to deny the Company's rate increase.

Section 4. This section recites that the resolution was passed at a meeting that was open to the public and that the consideration of the resolution was properly noticed.

Section 5. This section provides that both Oncor and Steering Committee counsel will be notified of the City's action by sending a copy of the approved and signed resolution to certain designated individuals.

Board Review/Citizen Input:

None.

Alternatives:

Deny the ordinance and provide staff direction.

Financial Considerations:

No individual city incurs liability for payment of rate case expenses by taking action to deny the Company's rate increase.

Legal Review:

The resolution has been approved to form.

Supporting Documents:

- Resolution

- List of member cities

Staff Recommendation:

Staff recommends approval of a resolution denying Oncor Electric Delivery Company's rate request increase.

Thank you for your consideration of this item, if I can be of any support, please contact me at 972-292-5103 or by email at agill@friscotexas.gov